



The Wisconsin Court System

October 2001

**CASE
OF THE
MONTH**

Trista Auman et al. v. School District of Stanley-Boyd et al.

Case Number: 00-2356-FT

Oral Argument: October 2, 2001; 10:45 a.m.

This is a certification from the Wisconsin Court of Appeals, District III (headquartered in Wausau). This means that the Court of Appeals, rather than issuing its own ruling, asked the Wisconsin Supreme Court to take the case directly. The Court of Appeals certifies cases that cannot be decided by applying current Wisconsin law. The Supreme Court is the state's law-developing court while the Court of Appeals is responsible for correcting errors that occur in the trial court. The case originated in Chippewa County Circuit Court, Judge Roderick A. Cameron presiding.

In this case, the Supreme Court will decide whether Wisconsin's recreational immunity statute protects school districts from lawsuits over playground injuries.

The statute, Wisconsin Statutes Section 895.52, grants broad immunity to government entities to protect them from lawsuits when people are injured while engaging in outdoor activities. The purpose of the law is to encourage landowners to permit their land to be used for recreation by removing the threat of lawsuits for injuries that any users may suffer. The statute defines recreational activities as follows: "hunting, fishing, trapping, camping, picnicking, exploring caves, nature study, bicycling, horseback riding, bird-watching, motorcycling, operating an all-terrain vehicle, ballooning, hang gliding, hiking, tobogganing, sledding, sleigh riding, snowmobiling, skiing, skating, water sports, sight-seeing, rock-climbing, cutting or removing wood, climbing observation towers, animal training, harvesting the products of nature, sport shooting and any other outdoor sport, game or educational activity."

Here is the background of this case: Trista Auman, who was 11 at the time, broke her leg while playing on a snow bank on her school's playground during recess. Her family sued the school district alleging negligent failure to inspect and maintain the premises and inadequate supervision. The circuit court granted the school district's motion for summary judgment, dismissing the case. The court concluded that the district could not be sued because it had immunity under the recreational immunity statute.

The Court of Appeals, noting that applying the recreational immunity statute to injuries that occur at school would be a substantial change in Wisconsin law, sent the case directly to the Supreme Court.

On appeal, Auman argues that the recreational immunity statute should not apply for two reasons. First, she did not enter the school grounds for recreation. She was required to be there by the state's compulsory education statute. Second, she argues that granting the school district immunity does not further the public policy goal behind the recreational immunity statute. Applying the statute in this instance, she argues, would not encourage schools to open their property for recreation.

The school district places no significance on the compulsory education statute. It focuses on Auman's activities during recess, pointing out that she voluntarily engaged in "outdoor activity taken for the purpose of exercise, relaxation, or pleasure" – exactly what the statute covers. Further, the school district notes that the statute explicitly lists "educational activity" as one example of "recreational activity." Finally, the district argues that, if the Court fails to grant immunity to the school district, recreational activity on school property may be discouraged or eliminated in order to avoid liability.

The Court will decide whether a school district may be sued for playground injuries.